

Application No. 10/574,752 - - - - 6

### REMARKS

Claims 1, 6-11, 17, 23, 26-30, 36, 38-40, 43, 45, 46, 53, 58, and 59 are pending in this application.

Claims 2-5, 12-16, 18-22, 24, 25, 31-35, 37, 41, 42, 44, 47-52, 54-57, and 60-65 have been canceled without prejudice.

#### Amended Claims.

Claims 1 and 26 have been amended to specify that the vaccine is an oral vaccine or is orally administered, and that the vaccine comprises attenuated *S. typhimurium* bacteria that include a plasmid encoding polyubiquitinated Fra-1 and a plasmid encoding IL-18. Support for these amendments can be found throughout the specification, e.g., in the working examples at page 20, line 15 through page 21, line 12; and page 22, line 8 through page 24, line 25, as well as in the discussion at page 25, line 26 through page 26, line 22. Claims 6-11, 17, 23, 27-30, 36, 43, 45, 46, 53, and 58 have also been amended in accordance with the changes made to claims 1 and 26. No new matter is added by these amendments.

#### Restriction Requirement.

Withdrawal of the Restriction Requirement is gratefully acknowledged.

#### Rejections Under 35 U.S.C. §101.

Claims 43, 45, and 46 stand rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. In response, these claims have been amended to state that the cells are isolated cells, as suggested by the Examiner. Withdrawal of this rejection is requested.

#### Rejections Under 35 U.S.C. §112

Claims 1, 6-11, 17, 23, 26-30, 36, 38-40, 43, 45, 46, 53, 58, and 59 stand rejected as allegedly failing to comply with the enablement requirement. While Applicants do not necessarily agree with the Examiner's assessment of the original claims, the present claims have nonetheless been amended to facilitate further prosecution of this application.

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According to the Office Action, the specification is enabling for a DNA vaccine comprising an attenuated *Salmonella typhimurium* comprising two separate plasmid encoding a polyubiquitinated Fra-1 and IL-18, respectively, and administered such as via oral immunization for cancer gene therapy, wherein the cancer cells overexpress Fra-1 (see page 3 of the Office Action).

The present claims now specify that the vaccine is an oral vaccine (i.e., orally administered) for treating tumors that overexpress Fra-1, and that the vaccine comprises attenuated *S. typhimurium* bacteria that include a plasmid encoding polyubiquitinated Fra-1 and a plasmid encoding IL-18. Accordingly, the present claims fall within the scope of subject matter that the Examiner has deemed to be enabled. Withdrawal of this rejection is requested.

**Conclusion.**

Claims 1, 6-11, 17, 23, 26-30, 36, 38-40, 43, 45, 46, 53, 58, and 59 are deemed to be in form or allowance. Early such action, and passage of the application to issue is solicited.

Respectfully submitted,

Dated:

July 10, 2008

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